

Philip H. Stillman, Esq. SBN# 152861
STILLMAN & ASSOCIATES
3015 North Bay Road, Suite B
Miami Beach, Florida 33140
Tel. and Fax: (888) 235-4279
pstillman@stillmanassociates.com

Attorneys for defendant R.F. WEICHERT V, INC.

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA**

Case No. 5:20-cv-00354-VKD

PETER STROJNIK,

Plaintiff,

vs.

R.F. WEICHERT V, INC. dba JABBERWOCK
INN,

Defendant.

**NOTICE OF MOTION AND MOTION
TO DISMISS COMPLAINT PURSUANT
TO FED. R. CIV. P. 12(B)(1) AND (6)**

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT.**

Date: April 7, 2020
Time: 10 a.m.
Courtroom: 2, 5th Fl.

Hon. Virginia K. DeMarchi

TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on April 7, 2020, or as soon thereafter as the matter may be heard in Courtroom 2 of the above-entitled court, R.F. WEICHERT V, INC.

("Defendant") will and hereby does move the Court for an Order dismissing the Complaint for lack of standing and failure to state a claim, pursuant to Fed. R. Civ. P. 12(b)(1) and (6).

This motion is brought on the grounds that Peter Strojnik ("Plaintiff") lacks sufficient Article III standing to bring the claims asserted in the complaint and fails to allege sufficient facts to support standing under the Unruh Act and Disabled Persons Act claims. Additionally, Plaintiff fails to state a claim upon which relief can be granted, and pleads punitive damages for a negligence cause of action, which Defendant requests to be stricken.

This motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities filed herewith, the Declaration of Philip H. Stillman and exhibits thereto, the pleadings and papers on file herein, and upon such other matters as may be presented to the Court at the time of the hearing, if any.

WHEREFORE, defendant R.F. WEICHERT V, INC. respectfully requests that this Court dismiss the Complaint with prejudice and without leave to amend.

Respectfully Submitted,

STILLMAN & ASSOCIATES



Dated: March 2, 2020

By:

Philip H. Stillman, Esq.
Attorneys for defendant R.F. WEICHERT V, INC.

PROOF OF SERVICE

I, the undersigned, certify under penalty of perjury that on March 3, 2020 or as soon as possible thereafter, copies of the foregoing Motion to Dismiss, Memorandum of Points and Authorities, the Declaration of Philip Stillman and Proposed Order was served electronically by the Court's ECF notice to all persons/entities requesting special notice or otherwise entitled to the same and via email to Plaintiff's email address listed with this Court.

By: /s/ Philip H. Stillman
Attorneys for R.F. WEICHERT V, INC.